

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALYSSA DIANE ESTEPP, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BETH ANN MILLER-CRONK,

Respondent,

and

DAVID WADE ESTEPP,

Respondent-Appellant.

UNPUBLISHED

August 1, 2000

No. 221981

Wayne Circuit Court

Family Division

LC No. 99-379350

Before: Wilder, P.J., and Holbrook, Jr., and McDonald, JJ.

MEMORANDUM.

Respondent-father appeals as of right from a family court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(f)(i) and (ii); MSA 27.3178(598.19b)(3)(f)(i) and (ii).¹ We affirm.

Respondent-father argues that the family court erred in terminating his rights because the statutory grounds for termination were not established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); MCR 2.613(C). We disagree. The evidence clearly shows that respondent-father has failed to meet his support obligations as ordered by the court. MCL 712A.19b(3)(f)(i); MSA 27.3178(598.19b)(3)(f)(i). We reject respondent-

¹ Respondent-mother Beth Ann Miller-Cronk stipulated to the termination of her parental rights and is not a part of this appeal.

father's assertion that the family court erred because the evidence did not establish either that he had the ability to pay support, or that there was no good cause for his failure to meet his support obligations. The plain language of subsection 3(f)(i) indicates that because a child support order had been entered, proof of respondent-father's ability to support or assist in supporting the child, apart from his substantial noncompliance with the support order, was not required. Cf. *In re Colon*, 144 Mich App 805; 377 NW2d 321 (1985).

Further, we believe that the evidence also supported the conclusion that although respondent-father had the ability to "visit, contact, or communicate with" his daughter, he failed to "regularly and substantially . . . do so for a period of 2 years or more before the filing of the petition." MCL 712A.19b(3)(f)(ii); MSA 27.3178(598.19b)(3)(f)(ii).

Affirmed.

/s/ Kurtis T. Wilder

/s/ Donald E. Holbrook, Jr.

/s/ Gary R. McDonald